IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3970 OF 2004

The Union of India and Ors. ... Petitioners

Vs.

Mohan Bharat Sagar & Ors. ... Respondents

Mr. P.M. Pradhan with Mr. Y.R. Mishra i/by S.S. Sarker for Petitioner.

Mr. P.A. Prabhakaran with Mr. S.G. Pillai for Respondent No. 1.

CORAM : F.I. REBELLO &
S.P. KUKDAY,JJ.
DATED : FEBRUARY 15, 2005

P.C.

. The Respondent No. 1 had filed O.A. No. 228 of 2002 before CAT, seeking reliefs mainly in the matter of fixation of his pay scale in Air India on his being promoted as D.I.G. in his parent department. The Respondent at the time when he was sent on deputation to Air India was working as Superintendent of Police. He thereafter came to be promoted in his parent department as Senior Superintendent of Police with effect from 1.1.1998. His post in Air India was also upgraded to Deputy General Manager (Vigilance). The Petitioner subsequently came to be promoted to the rank of D.I.G. with effect from 1.7.1999. Correspondence was exchanged between Air India and Government of India, Ministry of Civil Aviations as to the pay scale which the petitioner would be entitled to. As he was not granted the pay scale of D.I.G. the

petitioner had to file O.A. The Central Administrative Tribunal after considering the reliefs prayed for by the petitioner and various contentions urged, was pleased to hold that the petitioner would be entitled to pay scale of D.I.G. The learned Tribunal further considered the fact that the juniors to the petitioner in his home cadre i.e. State of M.P. were promoted with effect from 16.12.1998. Considering that the petitioner was senior to those promotees in his home State, the Tribunal directed the pay scale in the rank of D.I.G. be also be given to the Petitioner from 16.12.1998. This is the subject matter of the present petition.

. Though various contentions were urged on behalf of the Petitioners, ultimately the objection was that the petitioner could not have been granted pay scale from 16.12.1998 considering that he had been promoted with effect from 1.7.1999.

. We find from the records that by letter dated 26.12.2000 the Director, Ministry of Civil Aviations, Government of India has set out that the Air India itself in the letter of 3.10.2000 had informed that as the Respondent No. 1 had opted for D.I.G. in the scale of 16400-450-20000 he will be granted the new scale untill expiry of his

tenure. The letter notes that considering that Air India has decided the issue, it is also set out that M.P. Government by order of 14.10.1990 has clarified that had the respondent No. 1 remained in his cadre, he would have drawn the scale of D.I.G. from 1.7.1999. It is clear therefore, from this letter that Air India itself had agreed to give to Respondent No. 1 the pay scale of D.I.G. atleast from 1.7.1999. To that extent, the petitioner really can not have any grievance in so far as order of C.A.T. is concerned.

. The only issue that remains is whether the order of CAT providing pay scale to be given from 16.12.1998 is without jurisdiction. In so far as reliefs are concerned, the Respondent No.1 had not limited his reliefs only to 1.7.1999 but had prayed therein seeking relief which the tribunal would deem fit and proper. In other words the moulding of reliefs was within the jurisdiction of Tribunal. From the record, we find that the Petitioner was senior to many of his batch mates in his home state M.P. who were promoted by order dated 16.12.1998. His promotion was differed because he was on deputation. During the period of deputation subsequent to his promotion, Air India itself had recommended that the post of the Respondent be upgraded to General Manager. Further he was

working as C.V.O. during that period. It is bearing this in mind that CAT considered the issue of granting of relief to the petitioner from the date his juniors in his home State were promoted. Normally in service jurisprudence, holders of such posts and those who are senior cannot be given the lower pay than those of their juniors. All that the CAT has done therefore, is to place Respondent in the pay which juniors had got on their promotion on 16.12.1998. We find that to be a just order. We do not find that the order of CAT suffers from any error of law apparent on the face of record and or is without jurisdiction. Consequently we do not find this to be a fit case for this court to exercise, extra ordinary jurisdiction. Hence, petition is rejected.

. Considering that several years have elapsed benefits, we direct the Air India, petitioner herein to pay to Respondent No. 1 the wages and other benefits which he is entitled to in terms of Order of C.A.T., not latter than three months from today.

(F.I. REBELLO,J.)

(S.P. KUKDAY,J.)